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ORDER SHEET
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

WPO/774/2024

ALL BENGAL TRINAMOOL JUTE AND TEXTILE WORKERS UNION
VS
UNION OF INDIA (JUTE COMMISSIONER MINS OF TEXTILES AND ORS)

BEFORE:
The Hon'ble JUSTICE SHAMPA SARKAR
Date :1st October, 2024

Appearance :
Mr. Probal Kr. Mukherjee, Sr. Adv.
Mr. Deepan Sarkar, Adv.
Mr. Arnab Sardar, Adv.
... for the petitioner.

Mr. Samrat Sen, Ld. A.A.G.P.
Ms. SabnamDe.Bardhan, Adv.
... for the State.

Mr. AbhrajitMitra, Sr. Adv.
Ms. RajshreeKajaria, Adv.
Mr. Sarvapriya Mukherjee, Adv.
Mr. Satadeep Bhattacharyya, Adv.
... for respondent no.6.

Mr. RajdeepMazumder, Ld. Dy.Solicitor General
Mr. DebashisBasu, Adv.
Mr. Moyukh Mukherjee, Adv.
... for UOI.

Mr. SirsanyaBandapadhyay, Jr. S.C.
Ms. TapatiSamanta, Adv.
.... for respondent nos. 3-5

The Court: Report filed by the Officer on Special Duty & Ex-Officio
Special Labour Commissioner, Government of West Bengal is taken on
record.

It appears that a complete and exhaustive enquiry was made by the
concerned Authority and the list of jute mills, found to be deviating from the

obligations under the tripartite agreement, was prepared and forwarded to the Jute Commissioner.

It is contended by Mr. Samrat Sen, learned senior advocate that the report forwarded to the Jute Commissioner with regard to the errant jute mills was in compliance of clause 5 of the order of the Ministry of Textile dated December 26, 2023 being S.O. 5459(E). The information with regard to non-compliance of the labour laws was accordingly supplied to the Jute Commissioner. The report indicates that 23 jute mills were found to be deviating grossly from their obligations under the agreement in respect of agreed wages. The wage components of the workers were not being followed by these jute mills. 16 jute mills were found to be deviating partially from their obligations in respect of agreed wages, at least one of the wage components was not being followed.

Mr. Prabal Kr. Mukherjee, learned senior advocate for the petitioner and Mr. Abhrajit Mitra, learned senior advocate for respondent no. 6 submit that in terms of the notification dated February 4, 2016 bearing S.O. 382(E) issued by the Ministry of Textiles, the Jute Commissioner had the power to stop all kinds of unfair trade practices. Such provision should be read into the allegation of non-compliance of the tripartite agreement, as well. Non-payment of wages was an unfair trade practice. Reliance has also been placed on clause 5 of S.O. 5459(E) which casts a duty on the State Government to ensure that the labour laws were being followed.

Under such circumstances, it is prayed that a direction be issued upon the Jute Commissioner to take necessary steps on the basis of the report of the State Government by withdrawing benefits of the control orders from the non-complaint jute mills, which were previously given. Necessary steps under the Jute and Jute Textile Control Order, 2016 and the Production Control Order as far as applicable, should be taken.

Though Mr. Samrat Sen, learned senior advocate appearing for the State Government submits that the report would clarify the stand of the Government which was trying to enforce the labour laws etc., Learned Deputy Solicitor General appears for respondent no. 1 and submits that the tripartite agreement was not binding on the Jute Commissioner. The Jute Commissioner was not a party to the tripartite agreement. Clause 5 of the S.O. 5459(E) required the State Government to ensure compliance of the labour laws by those jute mills who were enjoying the benefits under the Jute Packaging Materials (Compulsory Use in Packing Commodities) Act, 1987 and it was not the duty of the Jute Commissioner to implement such laws in the jute mills of West Bengal. Learned Deputy Solicitor General submits that the petitioner and the respondent No.6 were trying to create monopoly by restricting the benefit of the Control Orders amongst themselves. Although Mr. Mitra and Mr. Mukherjee have relied on the Jute and Jute Textile Control Order, 2016, in support of the contention that the Jute Commissioner could take steps under clause 4 of the said order dated

February 4, 2016, this Court finds that such provision deals with other issues. For convenience, the provision is set out below :-.

“4. Power to control production of jute textiles – (1) The Jute Commissioner shall take all steps necessary for the implementation of the Jute Packaging Materials (Compulsory Use in Packing Commodities) Act, 1987 (10 of 1987) or any other directive of the Central Government and may by order, direct any jute mill, to produce such quantities of such specifications of jute textiles as may be specified in the order for such implementation, and the said order may be called as the Production Control Order (PCO).

(2) The Jute Commissioner shall take all steps necessary for the implementation of the Jute Packaging Materials (Compulsory Use in Packing Commodities) Act, 1987 (10 of 1987) or any other directive of the Central Government and may by order, direct any importers, processors, traders of raw jute and jute textiles to mark or print or brand such quantities of such specifications of jute textiles as may be specified in the order for such implementation.”

In my opinion, the said clause does not cover the allegation made by the petitioner and the respondent no. 6, in respect of the errant jute mills who were allegedly not complying with the requirement to pay wages in terms of the tripartite agreement. Whether under such circumstances the Jute Commissioner as an authority would take steps or not is entirely within the discretion of the authority and subject to any law empowering the Jute Commissioner to take steps against the jute mills, in case of violation of the labour laws. The State Government is to implement the labour laws and related regulations. The Jute Commissioner will deal with the report filed by the state government as he deems fit and necessary and express his views to the state government, upon hearing the state government and the errant mill owners. The Jute Commissioner is not a party to the agreement

and cannot be mandatorily directed to take steps for alleged non-compliance of the agreement by some jute mills.

In view of the above, the writ petition stands disposed of.

All parties to act on a server copy of this order.

(SHAMPA SARKAR, J.)

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